

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)	
)	NO. CR 05-313RSM
Plaintiff,)	
v.)	CONTINUING TRIAL DATE
BOBBY WAYNE WELLS,)	
)	
Defendant.)	

Based upon the reasons stated in the joint motion of the parties to continue the trial date, and upon a review of the records and files herein, this Court adopts the stipulation of the parties and FINDS and RULES as follows:

On November 5, 2004, a criminal complaint was filed charging the defendant, BOBBY WAYNE WELLS, with being a felon in possession on August 9, 2004, in violation of Title 18, United States Code, Section 922(g). At the time the criminal complaint was filed, WELLS was pending charges on different matters in King County Superior Court. On August 25, 2005, a grand jury returned an Indictment charging WELLS with the same conduct as charged in the criminal complaint.

On October 11, 2005, WELLS pled guilty to some of the King County charges and on October 31, 2005, he was sentenced to forty-three months' incarceration. On November 25, 2005, Mr. Filipovic, counsel for WELLS' on WELLS' federal case, notified the United States that WELLS had been sent to the Washington State Department of Corrections to serve a prison term and wanted to be brought into federal custody so that he could address the pending federal charge. On December 22, 2005, the Department of Corrections served the federal detainer on WELLS and he elected to be brought into federal custody to address

1 the pending charge.

2 Thereafter, on December 28, 2005, the United States applied for a Writ of Habeas
3 Corpus Ad Prosequendum and, on December 28, 2005, the Honorable John L. Weinberg,
4 United States Magistrate Judge, issued the Writ. WELLS made his first appearance in this
5 District on January 18, 2006, and has been detained pending trial. At the initial appearance,
6 a March 27, 2006, trial date was set.

7 On February 23, 2006, WELLS filed two pretrial motions in this case, one to suppress
8 statements and one to strike surplusage. The United States responded to the motions on
9 March 2, 2006, and they are pending resolution.

10 The parties have jointly moved for a continuance of the trial date. As grounds
11 therefore, the parties have indicated that failure to grant the continuance in this case would
12 deny counsel for the defendant and the attorney for the Government the reasonable time
13 necessary for effective preparation, taking into account the exercise of due diligence.
14 Specifically, the Assistant United States Attorney assigned to the case had a trial commence
15 on March 20, 2006, and the trial, involving nearly fifty witnesses, is expected to last six to
16 eight trial days. Accordingly, the Assistant
17 United States Attorney will not be available to try the WELLS case on March 27, 2006. In
18 addition, Mr. Filipovic has a trial scheduled for April 18, 2006, which is expected to last at
19 least two weeks. While there have been plea negotiations in that case, a final resolution has
20 not yet been reached. In addition, Mr. Filipovic is scheduled to be out of the country starting
21 May 15, 2006, and will not return to his office until June 6, 2006. Given the length of time
22 Mr. Filipovic will be out of the office, he will need a minimum of two weeks between his
23 return to the office and the commencement of trial to be adequately prepared for trial.
24 Moreover, because of the pending motions, only
25 37 days have passed under the Speedy Trial Act and the time is being tolled until resolution
26 of the motions. Accordingly, there are 33 days remaining under the Speedy Trial Act from
27 the date that the Court resolves the motions. 18 U.S.C.
28 § 3161(h)(1)(F).

1 The parties agree that the ends of justice served by granting this motion to continue
2 outweigh the best interest of the public and defendant in a speedy trial.

3 It therefore appearing to the Court that the ends of justice served by granting the
4 requested continuance outweigh the interest of the public and the defendants in a speedy
5 trial,

6 IT IS ORDERED that the trial date be continued from March 27, 2006, until
7 June 26, 2006.

8 IT IS FURTHER ORDERED that the period of delay from the date of this Order,
9 until June 26, 2006, is excludable time pursuant to 18 U.S.C. § 3161(h)(8)(A), for the
10 purpose of computing the time limitations imposed by the Speedy Trial Act,

11 DATED this 27 day of March 2006.



12
13 RICARDO S. MARTINEZ
14 UNITED STATES DISTRICT JUDGE

15 Presented By:

16 JOHN McKAY
17 United States Attorney

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*Signed electronically per telephone authorization.